

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7568

BILL NUMBER: HB 1985

NOTE PREPARED: Jan 21, 2003

BILL AMENDED:

SUBJECT: Pesticide Application Notification.

FIRST AUTHOR: Rep. Orentlicher

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the State Chemist to establish a Pesticide Notification Registry. The bill specifies that the registry must contain the names, residential addresses, and other contact information provided by persons who register with the State Chemist because their health requires advance notification of pesticide and fertilizer applications that will occur within close proximity of the persons' residences.

The bill requires pesticide and fertilizer applicators to provide notice to certain persons on the registry before applying a pesticide or fertilizer.

The bill requires certain persons that own or occupy land on which a pesticide will be applied to post signs that contain information concerning the application.

The bill requires schools and day care facilities that own or occupy land on which a pesticide will be applied to provide information concerning the application to parents or guardians of children that attend or use the schools and day care facilities.

The bill also requires a unit of state or local government to notify the news media before a pesticide application occurs.

Effective Date: Upon passage; July 1, 2003; January 1, 2004.

Explanation of State Expenditures: *Summary:* This bill includes two provisions: Pesticide Notification Registry, and Public Pesticide Notification Program. The costs associated with the Pesticide Notification

Registry include several components. These components include: (1) registry creation, (2) registry distribution, and (3) state agency compliance. **Estimated Total Cost:** \$50,000 to \$350,000 depending upon administrative action and compliance.

This Public Pesticide Notification Program requires that general notification to the public be provided for application of pesticide in certain situations. There are several components to this section: (1) display two signs in conspicuous public view the day before pesticides are applied on real property owned or occupied by certain entities, (2) provide notification to parents of children enrolled in certain educational facilities under specified conditions, and (3) prior to applying pesticides outdoors, a unit of government must post signs within a given area and contact news media. **Estimated Total Cost:** Unknown and dependent upon number of entities involved, number of applications of pesticide per year, and signage required.

Background on Pesticide Notification Registry:

The costs associated with this provision are presented in several components. These categories include: (1) registry creation, (2) registry distribution, and (3) state agency compliance.

(1) Registry Creation: The creation of the registry will require the design and creation of two separate databases - an applicator database, and registry database. The State Chemist states that the design of the databases could cost upwards of \$50,000. This does not include staff time to populate the databases with required information. It is estimated that the applicator database would contain approximately 150,000 individuals and companies to notify. Some of these applicators are known, while staff would be required to seek out unknown applicators and add them to the database. The number of individuals included in the registry database is unknown. Based upon the number of individuals on the Michigan registry, it is estimated that approximately 50 Indiana residents would sign up for the registry. Total number of entries on the registry depend upon the number of properties listed by each registrant. **Estimated Cost:** According to the State Chemist, approximately \$50,000, in addition to associated staff time, would be required to enter data.

(2) Registry Distribution: The State Chemist is required to distribute the registry twice yearly to all applicators in the state. Based upon information provided by the State Chemist, approximately 150,000 individuals qualify as an “applicator” as defined in this bill. The bill does not state how this distribution must occur. **Estimated Cost:** Depending upon administrative action, the cost of this distribution could vary greatly. Cost associated with posting information online is minimal. However, the cost associated with sending registry via first class postage delivery confirmation is approximately \$150,000 per mailing plus associated staff time.

Online Distribution: The registry could be posted online or mailed to each recipient. The cost of posting the registry online would be minimal.

Mail Distribution: Mailing the registry to all applicators would require staff time to prepare the mailing as well as postage charges for mailing. Cost to mail the registry is dependent upon the number of individuals on the registry and delivery options selected. The State Chemist may decide to request delivery confirmation to confirm receipt. The cost of delivery confirmation is \$0.45 for priority mail or \$0.55 for First-Class mail plus postage rate. Assuming this option were selected and the registry was sent First-Class mail the postage cost would be \$150,000 per mailing. This does not include the staff time to prepare the mailing.

(3) *State Agency Compliance:* Several state agencies would be required to comply with the provisions of this

bill. This cost can be assumed to be part of the administrative duties of these agencies. An agency that fails to comply with the notification requirement may be subject to a Class C infraction. The penalty is a \$500 fine per occurrence.

Background on Public Pesticide Notification Program:

This provision requires that general notification to the public be provided for application of pesticide in certain situations. There are several components to this section: (1) display two signs in conspicuous public view the day before pesticides are applied on real property owned or occupied by certain entities, (2) provide notification to parents of children enrolled in certain educational facilities under specified conditions, and (3) prior to applying pesticides outdoors, a unit of government must post signs within a given area and contact news media. **Estimated Total Cost:** Unknown. Dependent upon number of entities involved, number of applications of pesticide per year, and signage required.

(1) *Application on Real Public Property:* This provision affects the following entities: public libraries, university libraries, university dormitories, public parks, recreational areas frequented by children, public playgrounds, and public swimming pools. These entities must post two signs in conspicuous public view on the real property prior to applying pesticide. **Estimated Cost:** Negligible

(2) *Educational Facility Pesticide Notification:* Before a pesticide is applied on real property of a public school, private school, preschool, day care center, or day care home, the entity must either notify all parents at least 24 hours in advance or establish a program to notify only those parents that submit a written request to be notified. The notification shall include the date the pesticide will be applied, the locations of application, and the types of pesticides to be applied. **Estimated Cost:** Dependent upon administrative action. An educational facility may send letters home with children, mail notices to parents, or send notification home to only those parents that sign up on the entity's notification program.

(3) *Outdoor Government Pesticide Application:* This provision requires that a unit of state or local government must provide notice prior to applying pesticides outdoors. If the pesticide will be applied through fogging or spraying the signs must be posted at the application area and within two miles of the application area. If the pesticide will be applied through aerial application, the signs must be posted in the application area and within three miles of the application area. In addition, the government must notify the appropriate news media at least 24 hours prior to application. **Estimated Cost:** The cost is contingent upon application method and posting requirement. This provision does not specify the number of postings required within the application area nor area surrounding the application area. Cost to notify appropriate news media is negligible.

Explanation of State Revenues: State revenues are two-fold: registration fee from individuals signing up for registry, and fees collected from violation of the provisions of this legislation.

Based upon estimates derived from the number of individuals enrolled in the Michigan Pesticide Registry, an estimated 53 Indiana residents will register. The State Chemist shall charge each registrant a \$20 registration fee. The State Chemist would collect an estimated \$1,060. The registration fee is not required on an annual basis. Thus, the State Chemist can only collect fees from new registrants. It is unknown how many individuals will register in the first year and each succeeding year.

A person who violates these provisions commits a Class C infraction. If additional court cases occur, revenue

to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues: A person who violates these provisions commits a Class C infraction. If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Chemist, all that apply pesticides.

Local Agencies Affected: Trial courts, local law enforcement agencies, all that apply pesticides.

Information Sources: Alan R. Hanks, State Chemist, 765-494-1492.

Fiscal Analyst: Michael Molnar, 317-232-9559